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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re M.B., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

M.B.,

Defendant and Appellant.

E049557

(Super.Ct.No. INJ017602)

OPINION

APPEAL from the Superior Court of Riverside County. Charles Everett Stafford,  
Jr., Judge. Affirmed.

Patrick E. DuNah, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

# I

## INTRODUCTION

On May 2, 2006, Mark B. (minor) admitted allegations from two separate petitions: (1) malicious mischief under Penal Code<sup>1</sup> section 594, subdivision (b)(2), a misdemeanor; and (2) residential burglary under section 459, a felony. Custody of minor was continued to be placed with the probation officer.

On November 21, 2006, minor admitted another count of malicious mischief under section 594, subdivision (b)(2), from a subsequent petition filed November 14, 2006.

On May 8, 2008, a fourth petition was filed alleging one count of vandalism under section 594, subdivision (b)(1); and one count of possession of vandalism implements under section 594.2.

On February 5, 2009, a fifth petition was filed alleging one count of vandalism under section 594, subdivision (a).

On March 4, 2009, a sixth petition was filed alleging one count of possession of vandalism implements under section 594.2.

On April 22, 2009, a motion to suppress evidence under section 1538.5 was heard and denied, with respect to the allegations in the May 8, 2008 petition. Thereafter, on September 18, 2009, following a contested jurisdictional hearing, both allegations in the May 8, 2008 petition were found to be true.

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise specified.

On September 23, 2009, minor admitted the vandalism allegation in the February 5, 2009 petition as a misdemeanor, in exchange for a dismissal of the possession of vandalism implements charge in the March 4, 2009 petition.

On October 29, 2009, custody of minor was continued with the probation officer, and placement was continued in the custody of his parents.

On October 30, 2009, minor filed a notice of appeal.

## II

### STATEMENT OF FACTS

On or about February 21, 2006, minor unlawfully entered an inhabited dwelling house in Indio with the intent of committing a felony.

In September of 2006, minor willfully and maliciously defaced with graffiti; damaging and destroying property not his own in the amount of \$400 or more.

On April 15, 2008, Corporal Jeff Bottoms of the Indio Police Department was dispatched to a business in the area of Commerce and Van Buren regarding a suspicious vehicle. At approximately 11:30 p.m., Corporal Bottoms saw a teal green Chevrolet Silverado which matched the vehicle's description; the truck did not appear to have a rear license plate. As the officer got closer to the vehicle, he observed a license plate in the back of the rear window of the Silverado. Officer Bottoms could not read the license plate without the aid of spotlights on his vehicle. The officer initiated a traffic stop of the Silverado.

George Ochoa, the driver, did not have a license and was arrested for driving without a license. Ochoa, as well as the two passengers in the vehicle, minor and codefendant S.C., had purple, blue, lavender, silver, black and white paint on their hands. Each also had marks on their hands which looked like they came from using a spray paint can. The paint was still tacky.

On the window in the back of the truck, the letters “AKM,” which is an Indio tagging crew, were written in dirt. A backpack found in the truck had tagging on it. The backpack contained one-half gallon of purple paint, a paint roller with wet purple paint, and five spray cans of white, silver and lavender paint. The backpack also contained a white piece of paper with the letters “AKM” written in stencil.

The officer detained the minors while he investigated the area for possible vandalism and graffiti. At a rail yard approximately 15 minutes away from the site where the officer was originally dispatched, the officer located multiple train cars which had recently been painted with graffiti in the same type and colors of paint found on minor’s hands. The letters “AKM” and “RUK” were located on several different train cars. The paint on the train cars smelled fresh, was tacky when touched, and appeared as if it had been recently applied. The lavender color used on some of the graffiti matched the paint can found in the backpack in the Silverado. The graffiti on the railroad cars was not here the previous day. An officer, familiar with tagging, opined that all of the graffiti discovered in the rail yard could have been done by two to three people in less than two hours.

George Ochoa, the driver of the Silverado, is affiliated with the AKM tagging crew. Past evidence linked minor to the AKM tagging crew. Following a prior arrest, minor admitted to writing “AKM Cast” with a black marker in a Boys’ and Girls’ Club bathroom.

The cost to repair the graffiti placed on the train cars was estimated to be in excess of \$4,000.

Carmen S., the mother of minor’s child, testified. She stated that minor called her using his father’s cell phone between 8:30 and 9:00 p.m. on the night of the incident; they spoke for approximately 30 minutes.

Minor’s father testified. The father stated that minor was at home on the evening of the incident but left the house at some point; the father could not recall when minor left. The father recalled that his cell phone was at home during that evening.

### III

#### ANALYSIS

After minor appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436, and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues and requesting this court to undertake a review of the entire record.

We offered minor an opportunity to file a personal supplemental brief, which he has not done.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

IV

DISPOSITION

The judgment is affirmed.

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/s/ McKinster  
J.

We concur:

/s/ Hollenhorst  
Acting P.J.  
/s/ Miller  
J.